

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-77-C - ORDER NO. 2003-505

AUGUST 14, 2003

IN RE: Application of BellSouth Public Communications,) ORDER *NDW*
Inc. for Approval to Divest Itself of its Assets.) GRANTING
) MOTION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of BellSouth Public Communications, Inc. (BSPC) for designation of a mediator and for entry of a protective order. The Women's Shelter (the Shelter) has also replied to the Motion.

BSPC first moves for the designation of a mediator. BSPC states that it is willing to engage in non-binding mediation under certain conditions: (1) such mediation does not interfere with the August 27, 2003 date for oral argument; and (2) all matters presented in such mediation remain confidential and inadmissible in any subsequent proceedings in this docket or in any other legal or regulatory proceedings. Further, BSPC moves for appointment of a member of the advocacy staff as mediator and also moves that any such mediation be conducted in accordance with the Circuit Court Alternative Dispute Resolution Rules.

Second, BSPC states that it is willing to provide information that would be relevant to a public interest payphone inquiry (should the Commission elect to conduct

such an inquiry in a separate docket). BSPC notes that such information is proprietary to it. Accordingly, BSPC states that, in order to allow BSPC to provide such information to the Commission and the parties to this Docket while protecting such proprietary information from public disclosure, it requests that the Commission enter a protective order in this docket. BSPC enclosed a proposed protective order for the Commission's consideration.

The Women's Shelter replied to the Motion. The Shelter agrees with BSPC's Motion for the appointment of a mediator. Similarly, the Shelter concurs with BSPC's request for confidentiality and a protective order to the extent that the request allows BellSouth to provide confidential information "to the Commission and the parties to this docket while protecting such proprietary information from public disclosure." However, the Shelter does state a belief that some of the proprietary information is critical to determining an effective public interest payphone program in South Carolina. In the instant case, the Women's Shelter believes that any proprietary information provided in the mediation should be usable by Commission Staff and the parties to create a public interest payphone program, provided that if it is submitted in such a proceeding, it must be submitted pursuant to a protective order.

In addition, the Women's Shelter believes that the present date in August that is set for oral arguments should be continued, if the parties are to engage in effective mediation. Accordingly, the Shelter requests that the Commission allow the parties to mediate their dispute and set a tentative hearing date at least eight weeks after the parties begin mediation. According to the Shelter, this will provide time for the parties to engage

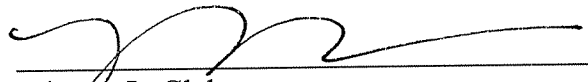
in effective mediation without eliminating the hearing date altogether. The Shelter also notes that if the mediation is unsuccessful, either party should be free to petition the Commission to set the date for a formal hearing at an earlier time.

We hereby grant BSPC's Motion in part. We appoint our General Counsel, F. David Butler, as the mediator. Further, as to the Protective Order, we hold that any proprietary information provided in the mediation should be usable by the Commission Staff and the parties in subsequent proceedings regarding the matter of divestiture of payphones, or the creation of a public interest payphone program, provided that any such information submitted in such proceeding is submitted pursuant to a protective order.

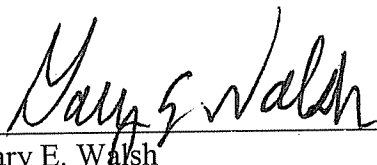
In addition, we grant the request of the Women's Shelter to cancel the August 27, 2003 oral arguments, but hold that parties should be able to petition for a hearing on the basis of a good faith belief that mediation is unsuccessful. However, we hold that the hearing, if needed, shall be set not later than eight (8) weeks following the commencement of mediation.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Mignon L. Clyburn
Chairman

ATTEST:


Gary E. Walsh
Executive Director

(SEAL)